

Notice of Allowability**Application No.**

09/423,712

Examiner

Q. Janice Li

Applicant(s)

NAWROTH ET AL.

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/4/04.
2. ☒ The allowed claim(s) is/are 7-10,12-17,21,28 and 30-32.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

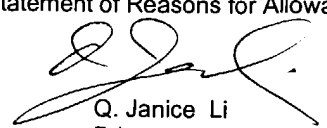
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☒ hereto or 2) ☒ to Paper No./Mail Date 1/3/02.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 10/20/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Q. Janice Li
Primary Examiner
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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 4, 2004 has been entered.

The amendment and response filed May 13, 2004 have been entered. Claims 11, 18-20, 23-27, and 33-35 have been canceled. Claims 7 and 21 have been amended. Claims 7-10, 12-17, 21, 28, and 30-32 are under current examination.

All of the amendments have been thoroughly reviewed. The previous rejections in the Office action mailed 1/14/2004 are withdrawn in view of the amendments and the following Examiner's Amendment.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Deborah H. Yellin on September 30, 2004.

The claims have been amended as follows:

Claim 7. (Currently amended) A method of activating blood vessel formation in a subject in need, comprising locally administering a functional Tissue Factor in a therapeutically effective amount to a non-malignant tissue of said subject in need, wherein said Tissue Factor or a fragment thereof is administered in the form of an expressible nucleic acid present in a plasmid vector; ~~and wherein the administration of the functional Tissue Factor modulates blood vessel formation in non-malignant tissue;~~ wherein the administration of the functional Tissue Factor causes activation of blood vessel formation in the non-malignant tissue.

In claim 13, the number --7-- was inserted in place of "20", and the phrase --plasmid vector-- was inserted in place of "Tissue Factor".

In claim 14, the phrase --plasmid vector-- was inserted in place of "Tissue Factor".

In claim 17, the number --7-- was inserted in place of "20", and the phrase --plasmid vector-- was inserted in place of "Tissue Factor".

Claim 21 (Currently amended) A method for enhancing wound healing in a subject in need, comprising locally administering a Tissue Factor or a fragment thereof in the form of an expressible nucleic acid present in a plasmid vector to a non-malignant wound tissue of said subject in need.

Claims 7-10, 12-17, 21, 28, and 30-32 have been renumbered as claims 1-15 in an orderly manner according to 37 C.F.R. 1.126 (see MPEP 608.01 (j) and 608.01 (n)/IV).

Drawings

The drawings filed on August 25, 2000 are acceptable subject to correction of the informalities indicated on the "Notice of Draftperson's Patent Drawing Review," PTO-948 in the paper mailed 1/3/02 (a copy is enclosed here). In order to avoid abandonment of this application, correction is required.

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: It does not identify the citizenship of the first named inventor.

Conclusion

Claims 7-10, 12-17, 21, 28, and 30-32 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Q. Janice Li** whose telephone number is 571-272-0730. The examiner can normally be reached on 9:30 am - 7 p.m., Monday through Friday, except every other Wednesday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Amy Nelson** can be reached on 571-272-0804. The fax numbers for the organization where this application or proceeding is assigned are **703-872-9306**.

Any inquiry of formal matters can be directed to the patent analyst, **Dianiece Jacobs**, whose telephone number is (571) 272-0532.

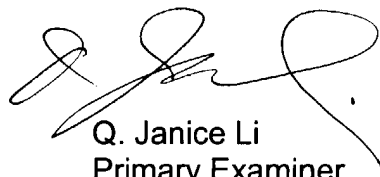
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has

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been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.



Q. Janice Li
Primary Examiner
Art Unit 1632



September 30, 2004